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AGENCY: General Services Division

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SUBJECT: The Citadel – Devise of Texas Real Property

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The Citadel is one of three beneficiaries of the estate of Dr. Edgar W. King, Jr. of San Antonio, Texas. The other beneficiaries are Baylor College of Medicine of Houston and Boysville, Inc. of the San Antonio area. Dr. King's father, Col. Edgar William King, was a graduate of the Citadel.

The estate is approximately \$7,500,000 of which the Citadel and Baylor are each to receive forty percent (40%) with the remaining twenty percent (20%) going to Boysville. The large bulk of the estate was securities, but there were two parcels of real property appraised at \$237,000 (103.2 acres) and \$52,000 (14.8 acres). Reportedly this real property had been in the King family since 1852.

After Dr. King died, Reverend Vivian Young Kinnear, the daughter of one of Dr. King's cousins, engaged counsel and made a claim for this real property, alleging that Dr. King intended to amend his will to devise it to her, but failed to do so. As proof of her claim, Rev. Kinnear produced a letter from Dr. King to her in which Dr. King wrote "When I get time I am going to add a Codicil to my Will leaving the West Point property to you when I die and maybe you can will it to Angela." The executor of Dr. King's estate has searched diligently for a will or codicil reflecting this intent, but has been unable to locate one. Thus, the will which was admitted to probate in Bexar County makes no mention of Dr. Kinnear.

Despite the absence of a more recent will or codicil, Rev. Kinnear has made repeated threats to contest the will. According to Rev. Kinnear's attorney, there is considerable evidence which would call for Dr. King's testamentary capacity into question. The Citadel is not interested in maintaining an undivided interest in real property in Texas. Baylor University is similarly uninterested in doing so. As a result, both are willing to forego their interest in that property. Unfortunately, though, during the pendency of the estate, the executor issued distribution deeds to the beneficiaries. Thus, the Citadel now requests approval to convey its forty percent (40%) undivided interest in the property directly to Rev. Kinnear. The executor is prepared to make a partial distribution of Dr. King's Estate. The Citadel will receive \$2.8 million initially and when Dr. King's estate is closed, the school will receive an additional sum of approximately \$200,000.

The Citadel respectfully requests that the Budget and Control Board approve its conveyance of an undivided forty percent (40%) interest in two pieces of real property in Texas to Rev. Kinnear.

In exchange, the Citadel will avoid lengthy and expensive probate litigation which could result in the loss of a \$3 million devise to the school. Although, by conveying the real property, the Citadel is foregoing a claim to approximately \$120,000, the Citadel feels that the risks and expenses of attempting to collect this sum make any further effort to collect it unreasonable.

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BOARD ACTION REQUESTED:

Authorize the Citadel to convey its interest in two parcels of real property located in Texas which was inadvertently received as a distribution of the Estate of Edgar W. King, Jr.

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ATTACHMENTS:

Agenda item worksheet; Letter from the Office of the General Counsel of the Citadel dated June 3, 2008



## BUDGET AND CONTROL BOARD AGENDA ITEM WORKSHEET

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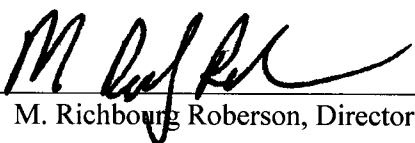
Meeting Scheduled for: June 17, 2008

Blue Agenda

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**1. Submitted by:**

- (a) Agency: General Services Division
- (b) Authorized Official Signature:

  
M. Richbourg Roberson, Director

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**2. Subject:** The Citadel – Devise of Texas Real Property

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**3. Summary Background Information:**

The Citadel is one of three beneficiaries of the estate of Dr. Edgar W. King, Jr. of San Antonio, Texas. The other beneficiaries are Baylor College of Medicine of Houston and Boysville, Inc. of the San Antonio area. Dr. King's father, Col. Edgar William King, was a graduate of the Citadel. The estate is approximately \$7,500,000 of which the Citadel and Baylor are each to receive forty percent (40%) with the remaining twenty percent (20%) going to Boysville. The large bulk of the estate was securities, but there were two parcels of real property appraised at \$237,000 (103.2 acres) and \$52,000 (14.8 acres). Reportedly this real property had been in the King family since 1852.

After Dr. King died, Reverend Vivian Young Kinnear, the daughter of one of Dr. King's cousins, engaged counsel and made a claim for this real property, alleging that Dr. King intended to amend his will to devise it to her, but failed to do so. As proof of her claim, Rev. Kinnear produced a letter from Dr. King to her in which Dr. King wrote "When I get time I am going to add a Codicil to my Will leaving the West Point property to you when I die and maybe you can will it to Angela." The executor of Dr. King's estate has searched diligently for a will or codicil reflecting this intent, but has been unable to locate one. Thus, the will which was admitted to probate in Bexar County makes no mention of Dr. Kinnear.

Despite the absence of a more recent will or codicil, Rev. Kinnear has made repeated threats to contest the will. According to Rev. Kinnear's attorney, there is considerable evidence which would call for Dr. King's testamentary capacity into question. The Citadel is not interested in maintaining an undivided interest in real property in Texas. Baylor University is similarly uninterested in doing so. As a result, both are willing to forego their interest in that property. Unfortunately, though, during the pendency of the estate, the executor issued distribution deeds to the beneficiaries. Thus, the Citadel now requests approval to convey its forty percent (40%) undivided interest in the property directly to Rev. Kinnear. The executor is prepared to make a partial distribution of Dr. King's Estate. The Citadel will receive \$2.8 million initially and when Dr. King's estate is closed, the school will receive an additional sum of approximately \$200,000.

The Citadel respectfully requests that the Budget and Control Board approve its conveyance of an undivided forty percent (40%) interest in two pieces of real property in Texas to Rev. Kinnear. In exchange, the Citadel will avoid lengthy and expensive probate litigation which could result in the loss of a \$3 million devise to the school. Although, by conveying the real property, the Citadel is

foregoing a claim to approximately \$120,000, the Citadel feels that the risks and expenses of attempting to collect this sum make any further effort to collect it unreasonable.

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- 4. What is Board asked to do?** Authorize the Citadel to convey its interest in two parcels of real property located in Texas which was inadvertently received as a distribution of the Estate of Edgar W. King, Jr.
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- 5. What is recommendation of Board Division involved?** Authorize the conveyance to Rev. Kinnear.
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**6. List of Supporting Documents:**

Letter from the Office of the General Counsel of the Citadel dated June 3, 2008.



# THE CITADEL

THE MILITARY COLLEGE OF SOUTH CAROLINA

Office of the General Counsel

June 3, 2008

Wayne F. Rush, Esq.  
South Carolina Budget and Control Board  
1201 Main Street, Suite 420  
Columbia, SC 29201

Re: Estate of Edgar W. King, Jr.,  
Bexar County, Texas

Dear Wayne:

The Citadel respectfully requests that the South Carolina Budget and Control Board authorize the reconveyance of a piece of real property it inadvertently received as part of the above-captioned estate.

As we have discussed, The Citadel is one of three beneficiaries of the estate of Dr. Edgar W. King, Jr, a resident of San Antonio, Texas. Dr. King had no brothers or sisters, was never married, and had no children. According to his Last Will and Testament, the residuary beneficiaries of Dr. King's estate are Baylor College of Medicine, of Houston, Texas, The Citadel, and Boysville, Inc., located in Bexar County, Texas. As I understand it, Baylor College was a beneficiary because Dr. King's attended medical school there, and The Citadel was a beneficiary because Dr. King's father, Col. Edgar William King, was a graduate of The Citadel.

The total value of the estate is approximately \$7.5 million. The Citadel and Baylor are both scheduled to receive forty (40%) percent of the estate. Boysville is entitled to the remaining twenty (20%) percent.

Among the assets of the estate are two pieces of property in West Point, Texas. The executor commissioned an appraisal of the property, which valued one at \$237,000, and the other at \$52,000. According to various accounts, this property has been in the King family since 1852. After Dr. King died, Reverend Vivian Young Kinnear, the daughter of one of Dr. King's cousins, engaged counsel and made a claim for this real property, alleging that Dr. King intended to amend his will to devise it to her, but failed to do so. As proof of her claim, Rev. Kinnear produced a letter from Dr. King to her in which Dr. King wrote "When I get time I am going to add a Codicil to my Will leaving the West Point property to you when I die and maybe you can will it to Angela." The executor of Dr. King's

estate has searched diligently for a Will or Codicil reflecting this intent, but has been unable to locate one. Thus, the Will which was admitted to Probate in Bexar County makes no mention of Dr. Kinnear.

Despite the absence of a more recent Will or Codicil, Rev. Kinnear has made repeated threats to contest the will. According to Rev. Kinnear's attorney, there is considerable evidence which would call for Dr. King's testamentary capacity into question. The attorney for the executor concedes as much. As you know, if Rev. Kinnear were to successfully challenge the estate, the rules of intestate succession would apply, and The Citadel would, at a minimum, receive considerably less than it is currently scheduled to receive. Indeed, there is a reasonable possibility that it could be completely excluded from the estate.

For numerous reasons, The Citadel is not interested in maintaining an interest in real property in Texas. Baylor University is similarly uninterested in doing so. As a result, both are willing to forego their interest in that property, and to allow Boysville to individually resolve the issue of its ownership with Rev. Kinnear. Unfortunately, though, during the pendency of the estate, the executor issued distribution deeds to the beneficiaries. Thus, The Citadel now requests your approval to relinquish its forty (40%) undivided interest in the property. More particularly, in an effort to avoid any litigation with Rev. Kinnear, The Citadel asks that it be allowed to transfer this interest to Rev. Kinnear.

In the meantime, the Executor is poised to make a partial distribution of Dr. King's Estate. Under the current plan, The Citadel will receive \$2.8 million. By the time Dr. King's estate is finally closed, the school will receive an additional \$200,000.

In short, The Citadel respectfully requests that the Budget and Control Board approve its conveyance of an undivided forty (40%) interest in two pieces of real property in Texas to Rev. Kinnear. In exchange, The Citadel will avoid lengthy and expensive probate litigation which could result in the loss of a \$ 3 million devise to the school. Although, by conveying the real property back to Rev. Kinnear, The Citadel is foregoing a claim to approximately \$120,000, The Citadel feels that the risks and expenses of attempting to collect this sum make any further effort to collect it unreasonable.

If you have any questions concerning this request, please do not hesitate to contact me. Otherwise, I understand that this request will be heard during the June 17 meeting of the Budget and Control Board. I plan to attend that meeting, and look forward to seeing you at that time.

Wayne F. Rush, Esq.  
June 3, 2008  
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With best regards, I am,

Yours truly,

A handwritten signature in black ink, appearing to read 'Mark C. Brandenburg', with a stylized, flowing script.

Mark C. Brandenburg  
General Counsel

E-mail: [mark.brandenburg@citadel.edu](mailto:mark.brandenburg@citadel.edu)

MCB:sd

